

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 206

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AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.186-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Notice shall be given under this section concerning the following:

- (1) A safety order under IC 22-8-1.1.
- (2) Any order that:
  - (A) imposes a sanction on a person or terminates a legal right, duty, privilege, immunity, or other legal interest of a person;
  - (B) is not described in section 4 or 5 of this chapter or IC 4-21.5-4; and
  - (C) by statute becomes effective without a proceeding under this chapter if there is no request for a review of the order within a specified period after the order is issued or served.
- (3) A notice of program reimbursement or equivalent determination or other notice regarding a hospital's reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.
- (4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's



Medicaid claims.

(5) A license suspension or revocation under:

- (A) IC 24-4.4-2;
- (B) IC 24-4.5-3;
- (C) IC 28-1-29;
- (D) IC 28-7-5;
- (E) IC 28-8-4; or
- (F) IC 28-8-5.

(6) An order issued by the

~~(A) division of aging or the bureau of aging services; or~~

~~(B) division of disability and rehabilitative services or the bureau of developmental disabilities services;~~

**secretary or the secretary's designee** against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

- (1) Each person to whom the order is specifically directed.
- (2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

- (1) A brief description of the order.
- (2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.
- (3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in



whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 4-24-6-4, AS AMENDED BY P.L.188-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section does not apply to a patient in an institution listed in IC 12-24-1-3 if the patient is in a unit that is a Medicaid certified intermediate care facility for ~~the mentally retarded~~. **individuals with intellectual disabilities.**

(b) Any interest or income derived from the deposit or investment of funds held in trust for any patient or inmate shall be transferred from such trust fund to a special fund to be known as the "patients' recreation fund" or "inmates' recreation fund"; provided, that in the event a trust fund has been established in any institution, which trust fund is in existence on July 1, 1957, and there is a deficiency in the amount of money that properly belongs in such trust fund, the income derived from any trust fund established under the provisions of this chapter shall be paid into the trust fund until the deficiency has been fully paid.

SECTION 3. IC 7.1-3-1-29, AS ADDED BY P.L.196-2015, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) For purposes of this section, "health facility" does not include an intermediate care facility for ~~the mentally retarded~~. **individuals with intellectual disabilities.**

(b) As used in this section, "senior residence facility" means a:

- (1) health facility licensed under IC 16-28; or
- (2) housing with services establishment (as defined in IC 12-10-15-3).

(c) For purposes of this section, "senior residence facility campus" means a senior residence facility and the property on which a senior residence facility is located.

(d) A senior residence facility may, without a permit issued under this title, possess and give or furnish an alcoholic beverage, by the bottle or by the glass, on the premises of the senior residence facility campus for consumption on the premises to any of the following:

- (1) A resident who:
  - (A) is not a minor; and
  - (B) resides on the premises of the senior residence facility.



(2) A guest or family member of a resident described in subdivision (1) who:

(A) is not a minor; and

(B) is visiting the resident at the senior residence facility.

(e) Subject to subsection (f), this section may not be construed to authorize a senior residence facility to sell alcoholic beverages on the premises of the senior residence facility campus without a permit under this title.

(f) For purposes of this section, a senior residence facility that:

(1) charges a:

(A) room and board fee to residents of the senior residence facility; or

(B) fee for organizing activities for:

(i) residents of the senior residence facility; and

(ii) guests or family members of the residents;

(2) uses a portion of a fee described in subdivision (1) to:

(A) purchase alcoholic beverages; and

(B) furnish the alcoholic beverages to individuals described in subsection (d); and

(3) does not purchase and furnish the alcoholic beverages for profit;

is not considered to be selling alcoholic beverages.

SECTION 4. IC 12-7-2-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 59. **(a) Except as provided in subsection (b), "designee" for purposes of IC 12-10-12, has the meaning set forth in IC 12-10-12-2: means an office director, division director, or other employee of the office of the secretary with expertise or knowledge concerning the area for which the individual is being designated.**

**(b) The definition set forth in subsection (a) does not apply to the following:**

**(1) Designations for purposes of administrative proceedings under IC 4-21.5.**

**(2) IC 12-11-1.1-10.**

**(3) IC 12-15-11-2.5.**

**(4) IC 12-15-13-3.5.**

**(5) IC 12-15-13-4.**

**(6) Designations of superintendents under IC 12-21-2-3 or IC 12-24-2-2.**

**(7) IC 12-30-2-15.**

SECTION 5. IC 12-7-2-61, AS AMENDED BY P.L.229-2011, SECTION 107, IS AMENDED TO READ AS FOLLOWS



[EFFECTIVE UPON PASSAGE]: Sec. 61. (a) Except as provided in subsection (b), "developmental disability" means a severe, chronic disability of an individual that meets all of the following conditions:

- (1) Is attributable to:
  - (A) intellectual disability, cerebral palsy, epilepsy, or autism; or
  - (B) any other condition (other than a sole diagnosis of mental illness) found to be closely related to intellectual disability, because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires treatment or services similar to those required for a person with an intellectual disability.
- (2) Is manifested before the individual is twenty-two (22) years of age.
- (3) Is likely to continue indefinitely.
- (4) Results in substantial functional limitations in at least three (3) of the following areas of major life activities:
  - (A) Self-care.
  - (B) Understanding and use of language.
  - (C) Learning.
  - (D) Mobility.
  - (E) Self-direction.
  - (F) Capacity for independent living.
  - (G) Economic self-sufficiency.

(b) The definition in subsection (a) does not apply and may not affect services provided to an individual receiving:

- (1) home and community based Medicaid waiver; or
- (2) ~~ICF/MR~~; **ICF/IID**;

services through the division on June 30, 2011.

SECTION 6. IC 12-7-2-134, AS AMENDED BY P.L.160-2012, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 134. "Office" means the following:

- (1) Except as provided in subdivisions (2) through ~~(4)~~; **(5)**, the office of ~~Medicaid policy and planning~~ **the secretary** established by ~~IC 12-8-6.5-1~~. **IC 12-8-1.5-1.**
- (2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.
- (3) For purposes of IC 12-15-13, the meaning set forth in IC 12-15-13-0.4.
- (4) For purposes of IC 12-17.2-7.2, the meaning set forth in IC 12-17.2-7.2-3.**
- ~~(4)~~ **(5)** For purposes of IC 12-17.6, the meaning set forth in



IC 12-17.6-1-4.

SECTION 7. IC 12-7-2-135, AS AMENDED BY P.L.160-2012, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 135. "Office of the secretary" refers to the office of the secretary of family and social services established by IC 12-8-1.5-1, **its offices, or divisions.**

SECTION 8. IC 12-8-1.5-4, AS ADDED BY P.L.160-2012, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The secretary may hire personnel necessary to perform the duties of each office.

(b) **Except as provided in subsection (c), the secretary is the appointing authority for the office of family and social services, including the divisions, offices, and institutions of the office of family and social services.**

(c) **The secretary may delegate the appointing authority for a division, office, institution, or other group of employees subject to IC 4-15-2.2.**

(d) **The delegation of the appointing authority under subsection (c) may affect the procedure and the division, office, institution, or other group of employees affected by actions under IC 4-15-2.2-40.**

SECTION 9. IC 12-8-8.5-3, AS AMENDED BY P.L.39-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The secretary is the appointing authority for the division.

(b) **The secretary may delegate a division director or other employee of the office of the secretary to make division appointments and decisions concerning current appointments.**

(c) **Except as provided in subsection (d), the secretary is the appointing authority for the office of family and social services, including the divisions, offices, and institutions of the office of family and social services.**

(d) **The secretary may delegate the appointing authority for a division, office, institution, or other group of employees subject to IC 4-15-2.2.**

(e) **The delegation of the appointing authority under subsection (d) may affect the procedure and the division, office, institution, or other group of employees affected by actions under IC 4-15-2.2-40.**

SECTION 10. IC 12-8-8.5-5, AS AMENDED BY P.L.39-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The secretary is the ultimate authority under IC 4-21.5 for purposes of the operation of the division and the programs of the division.



**(b) The secretary may delegate an individual to serve as the ultimate authority.**

SECTION 11. IC 12-9-2-3, AS AMENDED BY P.L.153-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The ~~director secretary or the secretary's designee~~ may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

**(2) Issue orders under IC 4-21.5-3-6.**

**(3) Perform any other acts necessary to carry out the functions of the division.**

**(b) The director may do the following:**

~~(2)~~ (1) Utilize, with their consent, the services and facilities of other state agencies without reimbursement.

~~(3)~~ (2) Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

~~(4)~~ (3) Accept voluntary and uncompensated services.

~~(5)~~ (4) Expend money made available to the division according to policies enforced by the budget agency.

~~(6)~~ Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.

~~(7)~~ (5) Establish and implement the policies and procedures necessary to carry out the functions of the division.

~~(8)~~ Issue orders under IC 4-21.5-3-6.

~~(9)~~ (6) Perform any other acts necessary to carry out the functions of the division as delegated by the secretary or consistent with the director's duties.

~~(b)~~ (c) The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. The director may adopt rules under IC 4-22-2 necessary to implement this subsection.

SECTION 12. IC 12-9.1-2-3, AS AMENDED BY P.L.153-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The ~~director secretary or the secretary's designee~~ may do the following:

(1) Employ experts and consultants to assist the division in carrying out the division's functions.

**(2) Issue orders under IC 4-21.5-3-6.**

**(3) Perform any other acts necessary to carry out the functions of the division.**

**(b) The director may do the following:**



~~(2)~~ **(1)** Use, with their consent, the services and facilities of other state agencies without reimbursement.

~~(3)~~ **(2)** Accept in the name of the division, for use in carrying out the functions of the division, money or property received by gift, bequest, or otherwise.

~~(4)~~ **(3)** Accept voluntary and uncompensated services.

~~(5)~~ **(4)** Expend money made available to the division according to policies enforced by the budget agency.

~~(6)~~ **Adopt rules under IC 4-22-2 necessary to carry out the functions of the division.**

~~(7)~~ **(5)** Establish and implement the policies and procedures necessary to carry out the functions of the division.

~~(8)~~ **Issue orders under IC 4-21.5-3-6.**

~~(9)~~ **(6)** Perform any other acts necessary to carry out the functions of the division **as delegated by the secretary or consistent with the director's statutory duties.**

~~(b)~~ **(c)** The director shall compile information and statistics from each bureau concerning the ethnicity and gender of a program or service recipient. ~~The director may adopt rules under IC 4-22-2 necessary to implement this subsection.~~

SECTION 13. IC 12-10-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The ~~director of the division~~ **secretary** shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 14. IC 12-10-11.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "institution" means any of the following:

(1) A health facility licensed under IC 16-28.

(2) An intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities.**

SECTION 15. IC 12-10-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Subject to sections 10 through 12 of this chapter, the ~~director of the division~~ **secretary or the secretary's designee** shall appoint the state long term care ombudsman to direct the office on a full-time basis.

SECTION 16. IC 12-10-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The ~~director~~ **secretary or the secretary's designee** shall appoint an acting state ombudsman within thirty (30) days of a vacancy in the position of state ombudsman. The acting state ombudsman has the powers and duties of the state ombudsman.

SECTION 17. IC 12-10-13-11 IS AMENDED TO READ AS





FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The ~~director~~ **may not appoint as state ombudsman an individual who has may not have** been employed by a long term care facility or a home care service organization within one (1) year preceding the ~~director's~~ proposed appointment **by the secretary or the secretary's designee.**

SECTION 18. IC 12-10-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The ~~director of the division~~ **secretary** shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 19. IC 12-10-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "bill payer" means a person appointed by the ~~bureau~~ **secretary or the secretary's designee** under this chapter to provide one (1) or more of the following services in order to assist a low income individual who is able to make responsible decisions about financial matters but needs assistance:

- (1) Paying bills each month and keeping records.
- (2) Establishing a budget.
- (3) Opening, organizing, and sending out mail.
- (4) Assisting the individual in check writing, with all checks to be signed by the individual.
- (5) Balancing checkbooks.
- (6) Making referrals to other agencies when necessary.

SECTION 20. IC 12-10-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The ~~director~~ **secretary** shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The ~~director~~ **secretary** shall adopt rules concerning the following:

- (1) Procedures for the posting of notices at housing with services establishments, area agencies on aging, and centers for independent living (as defined by IC 12-12-8-1) that advise residents of their rights under this chapter.
- (2) Procedures for residents and their representatives to file complaints with the director concerning violations of this chapter.

SECTION 21. IC 12-11-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 22. IC 12-11-1.1-10, AS AMENDED BY P.L.246-2005, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The office may assess



providers of community based services to individuals with a developmental disability who otherwise qualify to receive ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2) based services in an amount not to exceed six percent (6%) of all service revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund must be used for community services for persons with developmental disabilities.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 23. IC 12-11-2.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The bureau may not approve the initial placement of a developmentally disabled individual in an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** serving more than eight (8) individuals or a nursing facility unless:

- (1) the individual has medical needs; and
- (2) the placement is appropriate to the individual's needs.

If the placement is in a nursing facility, that placement must be appropriate to an individual's needs based upon preadmission screening conducted under IC 12-10-12.

SECTION 24. IC 12-11-2.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 25. IC 12-11-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The ~~director~~ **secretary** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 26. IC 12-11-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The ~~director~~



**secretary or the secretary's designee** shall appoint an acting ombudsman within thirty (30) days of a vacancy in the position of the ombudsman. The acting ombudsman has the powers and duties of the ombudsman.

SECTION 27. IC 12-11-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 28. IC 12-12.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 29. IC 12-13-2-3, AS AMENDED BY P.L.39-2015, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director~~ **secretary** is responsible for the following:

- (1) The appointment of state investigators or boards of review provided by law that are necessary to ensure a fair hearing to an applicant or a recipient. A fair hearing shall be granted at the request of an aggrieved person who desires a hearing. The division shall review cases upon the request of an applicant, a recipient, or an aggrieved person.
- (2) The adoption of all policies for the division.
- (3) The administrative and executive duties and responsibilities of the division.
- (4) The establishment of salaries for the officers and employees of the division within the salary ranges of the pay plan adopted by the Indiana personnel advisory board and approved by the budget committee.
- (5) The establishment of minimum standards of assistance for old age and dependent children recipients. A standard established under this subdivision must apply to all individuals in Indiana.

SECTION 30. IC 12-13-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The ~~director~~ **secretary or the secretary's designee** shall appoint necessary eligible personnel for the efficient performance of the division's duties.

SECTION 31. IC 12-13-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The ~~director~~ **secretary or the secretary's designee** shall appoint a bureau head or an employee who reports directly to the director.

(b) The bureau head shall, with the approval of the ~~director~~ **secretary or the secretary's designee**, appoint each employee who



reports directly to the head.

SECTION 32. IC 12-13-7-6, AS AMENDED BY P.L.210-2015, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The ~~director of the division~~ **secretary** shall adopt rules under IC 4-22-2 necessary to administer and supervise SNAP.

SECTION 33. IC 12-15-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The secretary ~~and office~~ may:

- (1) take actions;
- (2) give directions; and
- (3) adopt procedures and rules under IC 4-22-2;

necessary to carry out the Medicaid program and the federal Social Security Act to provide Medicaid and ensure uniform equitable treatment of applicants for and recipients of Medicaid.

SECTION 34. IC 12-15-1-15, AS AMENDED BY P.L.210-2015, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The office shall administer the program of assignment, enforcement, and collection of rights of payments for medical care that is provided for under 42 U.S.C. 1396k.

(b) The office may enter into contracts to administer the program described in subsection (a).

(c) The ~~office of the~~ secretary shall adopt rules under IC 4-22-2 to implement this section.

SECTION 35. IC 12-15-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Each:

- (1) school corporation; or
- (2) school corporation's employed, licensed, or qualified provider;

must enroll in a program to use federal funds under the Medicaid program (IC 12-15-1 et seq.) with the intent to share the costs of services that are reimbursable under the Medicaid program and that are provided to eligible children by the school corporation. However, a school corporation or a school corporation's employed, licensed, or qualified provider is not required to file any claims or participate in the program developed under this section.

(b) The ~~office of Medicaid policy and planning~~ **secretary** and the department of education may develop policies and adopt rules to administer the program developed under this section.

(c) Three percent (3%) of the federal reimbursement for paid claims that are submitted by the school corporation under the program required under this section must be:

- (1) distributed to the state general fund for administration of the



program; and

(2) used for consulting to encourage participation in the program. The remainder of the federal reimbursement for services provided under this section must be distributed to the school corporation. The state shall retain the nonfederal share of the reimbursement for Medicaid services provided under this section.

(d) The office of Medicaid policy and planning, with the approval of the budget agency and after consultation with the department of education, shall establish procedures for the timely distribution of federal reimbursement due to the school corporations. The distribution procedures may provide for offsetting reductions to distributions of state tuition support or other state funds to school corporations in the amount of the nonfederal reimbursements required to be retained by the state under subsection (c).

SECTION 36. IC 12-15-1.3-15, AS ADDED BY P.L.229-2011, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "division" refers to the division of disability and rehabilitative services established by IC 12-9-1-1.

(b) As used in this section, "waiver" refers to any waiver administered by the office and the division under section 1915(c) of the federal Social Security Act.

(c) Before October 1, 2011, the office shall apply to the United States Department of Health and Human Services for approval to amend a waiver to set an emergency placement priority for individuals in the following situations:

- (1) Death of a primary caregiver where alternative placement in a supervised group living setting:
  - (A) is not available; or
  - (B) is determined by the division to be an inappropriate option.
- (2) A situation in which:
  - (A) the primary caregiver is at least eighty (80) years of age; and
  - (B) alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.
- (3) There is evidence of abuse or neglect in the current institutional or home placement, and alternate placement in a supervised group living setting is not available or is determined by the division to be an inappropriate option.
- (4) There are other health and safety risks, as determined by the division director, and alternate placement in a supervised group



living setting is not available or is determined by the division to be an inappropriate option.

(d) The division shall report on a quarterly basis the following information to the division of disability and rehabilitative services advisory council established by IC 12-9-4-2 concerning each Medicaid waiver for which the office has been approved under this section to administer an emergency placement priority for individuals described in this section:

- (1) The number of applications for emergency placement priority waivers.
- (2) The number of individuals served on the waiver.
- (3) The number of individuals on a wait list for the waiver.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this section.

~~(f) This section expires July 1, 2016.~~

SECTION 37. IC 12-15-8.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "medical institution" means any of the following:

- (1) A hospital.
- (2) A nursing facility.
- (3) An intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities.**

SECTION 38. IC 12-15-11-3, AS AMENDED BY P.L.197-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A provider agreement must do the following:

- (1) Include information that the office determines necessary to facilitate carrying out of IC 12-15.
- (2) Prohibit the provider from requiring payment from a recipient of Medicaid, except where a copayment is required by law.
- (3) For providers categorized as high risk to the Medicaid program under 42 U.S.C. 1395cc(j)(2)(B) and 42 CFR 455.450, require the submission of necessary information, forms, or consents for the office to obtain a national criminal history background check **or, as allowed by the office, a fingerprint-based criminal history check, through a contractor under IC 12-15-30 or** the state police department under IC 10-13-3-39 of any person who:
  - (A) holds at least a five percent (5%) ownership interest in a facility or entity; or
  - (B) is a member of the board of directors of a nonprofit facility or entity;



in which the provider applicant plans to provide Medicaid services under the provider agreement. The provider applicant is responsible for the cost of the national criminal history background check **or fingerprint-based criminal history check.**

SECTION 39. IC 12-15-13-3.5, AS ADDED BY P.L.229-2011, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) As used in this section, "noninstitutional provider" means any Medicaid provider other than the following:

(1) A health facility licensed under IC 16-28.

(2) An ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's designee believes that an overpayment to a noninstitutional provider has occurred, the office of the secretary or the office of the secretary's designee may submit to the noninstitutional provider a preliminary review of draft audit findings.

(c) A noninstitutional provider that receives a preliminary review of draft audit findings under subsection (b) may request administrative reconsideration of the preliminary review of draft audit findings not later than forty-five (45) days after the issuance of the preliminary review of draft audit findings. The noninstitutional provider may submit comments along with the request for administrative reconsideration. The noninstitutional provider must request administrative reconsideration before filing an appeal.

(d) Following administrative reconsideration of the preliminary review of draft audit findings and any comments submitted along with the noninstitutional provider's request for administrative consideration and if the office of the secretary or the office of the secretary's designee believes that an overpayment has occurred, the office of the secretary or the office of the secretary's designee shall notify the noninstitutional provider in writing that the office of the secretary or the office of the secretary's designee:

(1) believes that the overpayment has occurred; and

(2) is issuing a final calculation of the overpayment.

(e) A noninstitutional provider who receives a notice under subsection (d) may elect to do one (1) of the following:

(1) Repay the amount of the final calculation not later than three hundred (300) days after the provider received the notice under subsection (d), including interest:

(A) due from the noninstitutional provider; and

(B) accruing from the date of overpayment.

(2) Request a hearing by filing an administrative appeal not later



than sixty (60) days after receiving the notice under subsection (d) and repay the amount of the final calculation of the overpayment under subsection (d) not later than three hundred (300) days after receiving the notice under subsection (d).

(f) If:

(1) a noninstitutional provider elects to proceed under subsection (e)(2); and

(2) the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the noninstitutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the noninstitutional provider owed;

the office of the secretary or the office of the secretary's designee shall return the amount of the alleged overpayment, and any interest paid by the noninstitutional provider, and pay the noninstitutional provider interest on the money from the date of the noninstitutional provider's repayment.

(g) Interest that is due under this section shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) as follows:

(1) Interest due from a noninstitutional provider to the state shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(2) Interest due from the state to a noninstitutional provider shall be paid at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(h) Interest on an overpayment to a noninstitutional provider is not due from the noninstitutional provider if the overpayment is the result of an error of:

(1) the office; or

(2) a contractor of the office;

as determined by the office of the secretary or the office of the secretary's designee.

(i) If interest on an overpayment to a noninstitutional provider is due from the noninstitutional provider, the secretary or the secretary's designee may, in the course of negotiations with the noninstitutional provider regarding an appeal filed under subsection (e), reduce the amount of interest due from the noninstitutional provider.

(j) Proceedings under this section are subject to IC 4-21.5.

SECTION 40. IC 12-15-13-4, AS ADDED BY P.L.229-2011, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this section,





"institutional provider" means the following:

- (1) A health facility that is licensed under IC 16-28.
- (2) An ~~ICF/MR~~ **ICF/IID** (as defined in IC 16-29-4-2).

(b) If the office of the secretary or the office of the secretary's designee believes that an overpayment to an institutional provider has occurred, the office of the secretary or the office of the secretary's designee may do the following:

- (1) Submit to the institutional provider a draft of the audit findings and accept comments from the institutional provider for consideration by the office of the secretary or the office of the secretary's designee before the audit findings are finalized.
- (2) Finalize the audit findings and issue the preliminary recalculated Medicaid rate.

(c) An institutional provider that receives a preliminary recalculated Medicaid rate under subsection (b)(2) may request administrative reconsideration of the preliminary recalculated Medicaid rate not later than forty-five (45) days after the issuance of the preliminary recalculated rate. The institutional provider must request administrative reconsideration before filing an appeal.

(d) Following reconsideration of an institutional provider's comments, and if the office of the secretary or the office of the secretary's designee believes that an overpayment has occurred, the office of the secretary or the office of the secretary's designee shall notify the institutional provider in writing that the office of the secretary or the office of the secretary's designee:

- (1) believes that the overpayment has occurred; and
- (2) is issuing a final recalculated Medicaid rate.

(e) Upon the next payment cycle, the office of the secretary or the office of the secretary's designee shall retroactively implement the final recalculated Medicaid rate.

(f) If the institutional provider is dissatisfied with the reconsideration response issued by the office of the secretary or the office of the secretary's designee, the institutional provider may request a hearing by filing an appeal with the office of the secretary not later than sixty (60) days after the issuance of the reconsideration response.

(g) If an institutional provider requests a hearing under subsection (f) and the office of the secretary or the office of the secretary's designee determines after the hearing and any subsequent appeal that the institutional provider does not owe the money that the office of the secretary or the office of the secretary's designee believed the institutional provider owed, the office of the secretary or the office of the secretary's designee shall repay the following to the institutional



provider not later than thirty (30) days after the completion of the hearing:

- (1) The amount of the alleged overpayment.
- (2) Any interest paid by the institutional provider.
- (3) Interest on the money described in subdivisions (1) and (2) from the date of the institutional provider's repayment.

(h) Interest due under this section by either the institutional provider or the office of the secretary shall be paid at a rate that is determined by the commissioner of the department of state revenue under IC 6-8.1-10-1(c) at the rate set by the commissioner for interest payments from the department of state revenue to a taxpayer.

(i) Interest on an overpayment to an institutional provider is not due from the institutional provider if the office of the secretary or the office of the secretary's designee determines that the overpayment is the result of an error by the following:

- (1) The office of the secretary.
- (2) A contractor of the office of the secretary.

(j) If interest on an overpayment to an institutional provider is due from the institutional provider, the office of the secretary or the office of the secretary's designee may, in the course of negotiations with the institutional provider concerning an appeal filed under this section, reduce the amount of interest due from the institutional provider.

SECTION 41. IC 12-15-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, "facility" refers to an intermediate care facility for ~~the mentally retarded (ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)** not operated by a state agency.

(b) The rules adopted by the secretary may not establish eligibility criteria for Medicaid reimbursement for placement or services in a facility, including services provided under a Medicaid waiver, that are more restrictive than federal requirements for Medicaid reimbursement in a facility or under a Medicaid waiver.

(c) The office may not implement a policy that may not be adopted as a rule under subsection (b).

SECTION 42. IC 12-15-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "facility" means a facility licensed under IC 12-28-5 and certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities**.

SECTION 43. IC 12-15-32-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The office



may assess community residential facilities for the developmentally disabled (as defined in IC 12-7-2-61) and intermediate care facilities for ~~the mentally retarded (ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)** (as defined in IC 16-29-4-2) that are not operated by the state in an amount not to exceed ten percent (10%) of the total annual revenue of the facility for the facility's preceding fiscal year.

(b) The assessments shall be paid to the office of Medicaid policy and planning in equal monthly amounts on or before the tenth day of each calendar month. The office may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) Revenue from the assessments shall be credited to a special account within the state general fund to be called the Medicaid assessment account. Money in the account may be used only for services for which federal financial participation under Medicaid is available to match state funds. An amount equivalent to the federal financial participation estimated to be received for services financed from assessments under subsection (a) shall be used to finance Medicaid services provided by facilities described in subsection (a).

(d) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

SECTION 44. IC 12-15-33-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. The committee shall be appointed as follows:

(1) One (1) member shall be appointed by the administrator of the office to represent each of the following organizations:

- (A) Indiana Council of Community Mental Health Centers.
- (B) Indiana State Medical Association.
- (C) Indiana State Chapter of the American Academy of Pediatrics.
- (D) Indiana Hospital Association.
- (E) Indiana Dental Association.
- (F) Indiana State Psychiatric Association.
- (G) Indiana State Osteopathic Association.
- (H) Indiana State Nurses Association.
- (I) Indiana State Licensed Practical Nurses Association.
- (J) Indiana State Podiatry Association.
- (K) Indiana Health Care Association.



- (L) Indiana Optometric Association.
- (M) Indiana Pharmaceutical Association.
- (N) Indiana Psychological Association.
- (O) Indiana State Chiropractic Association.
- (P) Indiana Ambulance Association.
- (Q) Indiana Association for Home Care.
- (R) Indiana Academy of Ophthalmology.
- (S) Indiana Speech and Hearing Association.
- (T) Indiana Academy of Physician Assistants.**

(2) Ten (10) members shall be appointed by the governor as follows:

- (A) One (1) member who represents agricultural interests.
- (B) One (1) member who represents business and industrial interests.
- (C) One (1) member who represents labor interests.
- (D) One (1) member who represents insurance interests.
- (E) One (1) member who represents a statewide taxpayer association.
- (F) Two (2) members who are parent advocates.
- (G) Three (3) members who represent Indiana citizens.

(3) One (1) member shall be appointed by the president pro tempore of the senate acting in the capacity as president pro tempore of the senate to represent the senate.

(4) One (1) member shall be appointed by the speaker of the house of representatives to represent the house of representatives.

SECTION 45. IC 12-15-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this section, "conversion" means:

- (1) the permanent closure of a Medicaid funded intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** bed, including intermediate care facilities for ~~the mentally retarded~~ **individuals with intellectual disabilities** licensed under IC 16-28-2, facilities licensed under IC 12-28-5 and certified under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as an intermediate care facility for ~~the mentally retarded~~, **individuals with intellectual disabilities**, and state institutions; and
- (2) the use of the state funds that paid the state share of Medicaid funding for the beds described in subdivision (1) to fund the expansion of the number of individuals receiving waiver services under an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** Medicaid waiver.



SECTION 46. IC 12-15-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The division shall do the following:

- (1) Assist providers who provide for the voluntary conversion of Medicaid funded intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** beds.
- (2) Assist in securing appropriate placements for individuals who reside in the intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** beds that are converted. However, an individual may not be moved from an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** bed until an appropriate alternative placement is available.

SECTION 47. IC 12-15-39-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Any savings that may result from a conversion under this chapter of an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** licensed under IC 16-28-2 or a state institution must be used to expand waiver services under an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities** Medicaid waiver to individuals throughout Indiana.

SECTION 48. IC 12-17.2-2.5-3, AS ADDED BY P.L.126-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Each committee must consist of members appointed:

- (1) by the ~~director~~ **secretary** or the ~~director's~~ **secretary's** designee; and
- (2) to provide diversity in representing the types of child care that comprise the committee's category specified in section 1 of this chapter, including size, licensure status, accreditation status, and geographic location in Indiana.

SECTION 49. IC 12-17.2-7.2-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. The secretary may adopt rules under IC 4-22-2 concerning the implementation and the administration of the program.**

SECTION 50. IC 12-17.6-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. "Office" refers to the office of ~~the children's health insurance program established by IC 12-17.6-2-1.~~ **Medicaid policy and planning established by IC 12-8-6.5-1.**

SECTION 51. IC 12-17.6-2-1 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The ~~office of the children's health insurance program is established within the office of the secretary~~ **shall administer the children's health insurance program through the office of Medicaid policy and planning.**

SECTION 52. IC 12-17.6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The **secretary, through the office,** shall design and administer a system to provide health benefits coverage for children eligible for the program.

SECTION 53. IC 12-17.6-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The ~~office secretary~~ shall adopt rules under IC 4-22-2 to implement the program.

(b) The ~~office secretary~~ may adopt emergency rules under IC 4-22-2-37.1 to implement the program on an emergency basis.

(c) **A rule adopted before April 15, 2016, by the office of children's health insurance program is transferred to the office of the secretary.**

SECTION 54. IC 12-17.6-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The **secretary, through the office,** shall administer the fund.

SECTION 55. IC 12-17.6-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The **secretary, through the office:**

- (1) may make necessary additional investigations; and
- (2) shall make decisions concerning the:
  - (A) granting of program services; and
  - (B) amount of program services to be granted;
 to an applicant or a recipient that the office believes are justified and in conformity with the program.

SECTION 56. IC 12-21-2-3, AS AMENDED BY P.L.160-2012, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~In addition to the general authority granted to the director under IC 12-8-8.5; The director secretary or the secretary's designee~~ shall do the following:

- (1) Organize the division, create the appropriate personnel positions, and employ personnel necessary to discharge the statutory duties and powers of the division or a bureau of the division.
- (2) Subject to the approval of the state personnel department, establish personnel qualifications for all deputy directors, assistant directors, bureau heads, and superintendents.
- (3) Subject to the approval of the budget director and the governor, establish the compensation of all deputy directors,



assistant directors, bureau heads, and superintendents.

(4) Study the entire problem of mental health, mental illness, and addictions existing in Indiana.

(5) Adopt rules under IC 4-22-2 for the following:

(A) Standards for the operation of private institutions that are licensed under IC 12-25 for the diagnosis, treatment, and care of individuals with psychiatric disorders, addictions, or other abnormal mental conditions.

(B) Licensing or certifying community residential programs described in IC 12-22-2-3.5 for individuals with serious mental illness (SMI), serious emotional disturbance (SED), or chronic addiction (CA) with the exception of psychiatric residential treatment facilities.

(C) Certifying community mental health centers to operate in Indiana.

(D) Establish exclusive geographic primary service areas for community mental health centers. The rules must include the following:

(i) Criteria and procedures to justify the change to the boundaries of a community mental health center's primary service area.

(ii) Criteria and procedures to justify the change of an assignment of a community mental health center to a primary service area.

(iii) A provision specifying that the criteria and procedures determined in items (i) and (ii) must include an option for the county and the community mental health center to initiate a request for a change in primary service area or provider assignment.

(iv) A provision specifying the criteria and procedures determined in items (i) and (ii) may not limit an eligible consumer's right to choose or access the services of any provider who is certified by the division of mental health and addiction to provide public supported mental health services.

(6) Institute programs, in conjunction with an accredited college or university and with the approval, if required by law, of the commission for higher education, for the instruction of students of mental health and other related occupations. The programs may be designed to meet requirements for undergraduate and postgraduate degrees and to provide continuing education and research.



(7) Develop programs to educate the public in regard to the prevention, diagnosis, treatment, and care of all abnormal mental conditions.

(8) Make the facilities of the Larue D. Carter Memorial Hospital available for the instruction of medical students, student nurses, interns, and resident physicians under the supervision of the faculty of the Indiana University School of Medicine for use by the school in connection with research and instruction in psychiatric disorders.

(9) Institute a stipend program designed to improve the quality and quantity of staff that state institutions employ.

(10) Establish, supervise, and conduct community programs, either directly or by contract, for the diagnosis, treatment, and prevention of psychiatric disorders.

(11) Adopt rules under IC 4-22-2 concerning the records and data to be kept concerning individuals admitted to state institutions, community mental health centers, or other providers.

(12) Compile information and statistics concerning the ethnicity and gender of a program or service recipient.

(13) Establish standards for services described in IC 12-7-2-40.6 for community mental health centers and other providers.

SECTION 57. IC 12-21-2-5, AS AMENDED BY P.L.99-2007, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, the ~~director~~ **secretary** may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the ~~director~~ **secretary** decides that a final decision is to be made concerning the placement of an individual with a mental illness in a mental health facility, the final decision must be made:

(1) by the ~~director~~, **secretary**, if the ~~director~~ **secretary** is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the ~~director~~, **secretary**;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

SECTION 58. IC 12-21-2-8, AS AMENDED BY P.L.143-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ~~director~~ **secretary or the secretary's designee** shall develop a comprehensive system of monitoring, evaluation, and quality assurance for the services required





by this chapter.

(b) The ~~director~~ **secretary** shall determine to whom contracts are awarded, based on the following factors:

- (1) The continuity of services a contractor provides for patients.
- (2) The accessibility of a contractor's services to patients.
- (3) The acceptability of a contractor's services to patients.
- (4) A contractor's ability to focus services on building the self-sufficiency of the patient.

(c) This subsection applies to the reimbursement of contract payments to providers. Payments must be determined prospectively in accordance with generally accepted accounting principles and actuarial principles recognizing costs incurred by efficiently and economically operated programs that:

- (1) serve individuals with a mental illness or substance abuse patients; and
- (2) are subject to quality and safety standards and laws.

(d) Before entering into a contract under this section, the ~~director~~ **secretary or the secretary's designee** shall submit the contract to the attorney general for approval as to form and legality.

(e) A contract under this section must do the following:

- (1) Specify:
  - (A) the work to be performed; and
  - (B) the patient populations to whom services must be provided.
- (2) Provide for a reduction in funding or termination of the contract for failure to comply with terms of the contract.
- (3) Require that the contractor meet the standards set forth in rules adopted by the division of mental health and addiction under IC 4-22-2.
- (4) Require that the contractor participate in the division's evaluation process.
- (5) For any service for which the division chooses to contract on a per diem basis, the per diem reimbursement shall be determined under subsection (c) for the contractor's reasonable cost of providing services.
- (6) In contracts with capitated payment provisions, provide that the contractor's cost of purchasing stop-loss insurance for the patient populations to be served in amounts and with limits customarily purchased by prepaid health care plans must be:
  - (A) included in the actuarial determination of the capitated payment amounts; or
  - (B) separately paid to the contractor by the division.



(7) Provide that a contract for enumerated services granted by the division under this section to an approved provider may not create or confer upon the provider liability or responsibility for care or services beyond those services supported by the contract.

SECTION 59. IC 12-24-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Subject to the approval of the governor, the ~~director of the division~~ **secretary or the secretary's designee** shall appoint the superintendent of a state institution.

SECTION 60. IC 12-24-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director of the division~~ **secretary** may adopt rules under IC 4-22-2 to prescribe the qualifications of a superintendent of a state institution under the control of the division. A superintendent must possess the prescribed qualifications.

SECTION 61. IC 12-24-2-4, AS AMENDED BY P.L.28-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A superintendent serves at the pleasure of the ~~director~~ **secretary**.

SECTION 62. IC 12-25-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The standards of treatment and care to be maintained must be appropriate under existing knowledge of the needs of the individuals, as determined by the ~~director~~ **secretary**. The ~~director~~ **secretary** shall prescribe minimum standards for the private institutions and for the care and treatment provided in the private institutions as set forth in IC 12-21-2-3(5).

SECTION 63. IC 12-25-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person must hold a license issued by the ~~director~~ **secretary or the secretary's designee** to establish, conduct, operate, or maintain a private institution under any name for the treatment and care of individuals with psychiatric disorders, developmental disabilities, convulsive disturbances, or other abnormal mental conditions.

SECTION 64. IC 12-25-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. **(a)** The ~~director~~ **secretary or the secretary's designee** may:

- (1) issue a license upon an application without further evidence; or
- (2) ~~conduct a hearing on the application and conduct an investigation~~ **refer the license application for a hearing** to determine whether a license should be granted.

**(b) If the director refers the license application for a hearing**



under subsection (a)(2), the secretary shall:

- (1) serve as the administrative law judge; or
- (2) appoint an administrative law judge to serve as the secretary's designee.

The secretary or the secretary's designee shall conduct a hearing on the referred license application and conduct an investigation to determine whether the license should be granted.

SECTION 65. IC 12-25-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If after a hearing, the ~~director~~ **secretary or the secretary's designee** finds that a license should not be granted, the ~~director~~ **secretary or the secretary's designee** shall notify the applicant, giving the reason for the finding.

SECTION 66. IC 12-25-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. If after a hearing, the ~~director~~ **secretary or the secretary's designee** finds that an applicant complies and will in the future comply with this article and the rules adopted under IC 12-21-2-3(5), the director shall issue a license to the applicant to operate the institution.

SECTION 67. IC 12-25-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A licensee is entitled to notice of not less than thirty (30) days of the time and place for a hearing before the ~~director~~ **secretary or the secretary's designee** on the complaint. The notice shall be sent by registered mail to the licensee at the address shown in the licensee's application.

SECTION 68. IC 12-25-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The ~~director,~~ **secretary or the secretary's designee**, after a hearing, may suspend or revoke the license.

SECTION 69. IC 12-25-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. If the ~~director~~ **secretary or the secretary's designee** suspends a license, the ~~director~~ **secretary or the secretary's designee** may also recommend the conditions to be met by the licensee during the period of suspension to entitle the licensee to resume operation of the institution on the existing license.

SECTION 70. IC 12-25-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the ~~director~~ **secretary or the secretary's designee** suspends or revokes a license, the ~~director~~ **secretary or the secretary's designee** shall enter an order in accordance with the suspension or revocation in which the grounds of the suspension or revocation are set forth.

SECTION 71. IC 12-25-2-8 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The ~~director~~ **secretary or the secretary's designee** may, after a hearing, hold a case under advisement and make a recommendation of the requirements to be met by the licensee to avoid suspension or revocation. The ~~director~~ **secretary or the secretary's designee** shall enter an order accordingly and notify the licensee of the finding by registered mail.

(b) If the licensee complies with the order and proves that fact to the satisfaction of the ~~director~~, **secretary or the secretary's designee**, the ~~director~~ **secretary or the secretary's designee** shall enter an order showing satisfactory compliance and dismissing the case because of the compliance.

SECTION 72. IC 12-25-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A licensee or an applicant for a license aggrieved by an action of the ~~director~~ **secretary or the secretary's designee** may appeal the action to the circuit or superior court in the county in which the institution in question is located or is proposed to be located by filing a notice and bond in the amount of two hundred dollars (\$200) for the payment of costs in the office of the circuit court clerk of the county.

SECTION 73. IC 12-25-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The circuit court clerk shall notify the ~~director~~ **secretary** that the appeal has been taken.

SECTION 74. IC 12-25-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~director~~ **secretary or the secretary's designee** shall cause to be certified to the appropriate court a copy of:

- (1) the complaint and the order for a suspension or revocation; or
- (2) the application and order of refusal of a license.

SECTION 75. IC 12-25-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The case shall be docketed as a civil action, with the applicant or licensee as the plaintiff and the ~~director~~ **secretary** as the defendant.

(b) No further pleading is necessary.

SECTION 76. IC 12-25-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The court has jurisdiction to the extent that courts exercise jurisdiction over administrative bodies and may enter an order either sustaining the action of the ~~director~~ **secretary** or setting the action aside.

SECTION 77. IC 12-25-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The circuit court clerk shall certify to the ~~director~~ **secretary** a copy of the decision of the court.



SECTION 78. IC 12-26-11-1, AS AMENDED BY P.L.117-2015, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The superintendent of a facility to which an individual was committed under IC 12-26-6 or IC 12-26-7 or to which the individual's commitment was transferred under this chapter, may transfer the commitment of the individual to:

- (1) a state institution;
- (2) a community mental health center;
- (3) a community intellectual disability and other developmental disabilities center;
- (4) a federal facility;
- (5) a psychiatric unit of a hospital licensed under IC 16-21;
- (6) a private psychiatric facility licensed under IC 12-25;
- (7) a community residential program for the developmentally disabled described in IC 12-11-1.1-1(e)(1) or IC 12-11-1.1-1(e)(2); or
- (8) an intermediate care facility for ~~the mentally retarded (ICF/MR)~~ **individuals with intellectual disabilities (ICF/IID)** that is licensed under IC 16-28 and is not owned by the state;

if the transfer is likely to be in the best interest of the individual or other patients.

SECTION 79. IC 12-26-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After an individual has been returned to the facility to which the individual is committed under this article, the ~~director~~ **secretary** shall conduct a hearing under IC 4-21.5-3 to determine whether:

- (1) the individual has failed to comply with the requirements described in section 8 of this chapter;
- (2) the individual is in need of inpatient treatment; and
- (3) the individual's outpatient status should be revoked.

(b) A hearing required by subsection (a) may be conducted by a hearing officer appointed by the ~~director~~ **secretary**.

(c) An individual may appeal under IC 4-21.5-5 a determination of the hearing officer by filing a petition with the court that committed the individual under IC 12-26-6 or IC 12-26-7.

SECTION 80. IC 16-18-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 185. ~~"ICF/MR"~~ **"ICF/IID"**, for purposes of IC 16-29-4, has the meaning set forth in IC 16-29-4-2.

SECTION 81. IC 16-29-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to the following:



(1) The conversion of existing health facility beds to ~~ICF/MR~~ **ICF/IID** beds.

(2) The construction of new ~~ICF/MR~~ **ICF/IID** facilities after June 30, 1987.

SECTION 82. IC 16-29-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, ~~"ICF/MR"~~ **"ICF/IID"** refers to an intermediate care facility for ~~the mentally retarded~~ **individuals with intellectual disabilities**.

(b) The term does not include a facility administered under IC 12-11-1.1 or IC 12-22-2.

SECTION 83. IC 16-29-4-3, AS AMENDED BY P.L.141-2014, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Before the conversion of existing health facility beds to ~~ICF/MR~~ **ICF/IID** beds or the construction of a new ~~ICF/MR~~ **ICF/IID** facility, the state department may issue a preliminary approval of the proposed project, but only if the state department determines that there is an insufficient number of available beds to care for all the persons who are determined under IC 12-11-2.1 to be appropriate for placement in an ~~ICF/MR~~ **ICF/IID** facility.

SECTION 84. IC 16-29-4-4, AS AMENDED BY P.L.141-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A proposed project that receives preliminary approval under this chapter may not add more beds than the number determined by the state department to be necessary to provide an available bed for each person determined under IC 12-11-2.1 to be appropriate for placement in an ~~ICF/MR~~ **ICF/IID** facility. Upon completion of the proposed project and compliance with the other requirements for licensure under IC 16-28, the state department shall issue a license to the facility.

SECTION 85. IC 25-23-1-19.4, AS AMENDED BY P.L.58-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19.4. (a) This section does not apply to certified registered nurse anesthetists.

(b) As used in this section, "practitioner" has the meaning set forth in IC 16-42-19-5. However, the term does not include the following:

- (1) A veterinarian.
- (2) An advanced practice nurse.
- (3) A physician assistant.

(c) An advanced practice nurse shall operate:

- (1) in collaboration with a licensed practitioner as evidenced by a practice agreement; ~~or~~



(2) by privileges granted by the governing board of a hospital licensed under IC 16-21 with the advice of the medical staff of the hospital that sets forth the manner in which an advanced practice nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients; **or**

**(3) by privileges granted by the governing body of a hospital operated under IC 12-24-1 that sets forth the manner in which an advanced practice nurse and a licensed practitioner will cooperate, coordinate, and consult with each other in the provision of health care to their patients.**

SECTION 86. An emergency is declared for this act.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

